

<p>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</p> <p>WILLIAM G. MALCOLM, #129271 NATHAN F. SMITH, #264635 MALCOLM ♦ CISNEROS, A Law Corporation 2112 Business Center Drive, Second Floor Irvine, California 92612 (949) 252-9400 (TELEPHONE) (949) 252-1032 (FACSIMILE) Email: bill@mclaw.org; nathan@mclaw.org</p> <p><input type="checkbox"/> <i>Movant(s) appearing without an attorney</i> <input checked="" type="checkbox"/> <i>Attorney for Movant(s)</i></p>	<p>FOR COURT USE ONLY</p>
<p align="center">UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION</p>	
<p>In re: Jeffrey S. Beier,</p> <p align="right">Debtor(s).</p>	<p>CASE NO.: 8:23-bk-10898-TA CHAPTER: 7</p> <p align="center">DECLARATION THAT NO PARTY REQUESTED A HEARING ON MOTION LBR 9013-1(o)(3)</p> <p align="center">[No Hearing Required]</p>

1. I am the ☐ Movant(s) or ☒ attorney for Movant(s) or ☐ employed by attorney for Movant(s).
2. On (date): 09/27/2023 Movant(s) filed a motion or application (Motion) entitled: Trustee's Application to Employ The Law Firm of Malcolm & Cisneros, A Law Corporation as General Counsel, Declaration of Nathan F. Smith in Support Thereof
3. A copy of the Motion and notice of motion is attached to this declaration.
4. On (date): 09/27/2023 Movant(s), served a copy of ☐ the notice of motion or ☒ the Motion and notice of motion on required parties using the method(s) identified on the Proof of Service of the notice of motion.
5. Pursuant to LBR 9013-1(o), the notice of motion provides that the deadline to file and serve a written response and request for a hearing is 14 days after the date of service of the notice of motion, plus 3 additional days if served by mail, or pursuant to F.R.Civ.P. 5(b)(2)(D) or (F).
6. More than 17 days have passed after Movant(s) served the notice of motion.
7. I checked the docket for this bankruptcy case and/or adversary proceeding, and no response and request for hearing was timely filed.
8. No response and request for hearing was timely served on Movant(s) via Notice of Electronic Filing, or at the street address, email address, or facsimile number specified in the notice of motion.

9. Based on the foregoing, and pursuant to LBR 9013-1(o), a hearing is not required.

Movant(s) requests that the court grant the motion and enter an order without a hearing.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: 10/17/2023

/s/ Nathan F. Smith
Signature

Nathan F. Smith
Printed name

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

2112 Business Center Drive
Irvine CA 92612

A true and correct copy of the foregoing document entitled: **DECLARATION THAT NO PARTY REQUESTED A HEARING ON MOTION [LBR 9013-1(o)(3)]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 10/17/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

OFFICE OF U.S. TRUSTEE: United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov
CHAPTER 7 TRUSTEE: Arturo Cisneros (TR) amctrustee@mclaw.org, acisneros@iq7technology.com;
ecf.alert+Cisneros@titlexi.com

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) 10/17/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR: Jeffrey S Beier, P O Box 7644, Laguna Niguel, CA 92677

NOTICE: Brian Thompson, Winterstone Real Estate, 23792 Rockfield Blvd, Ste 101, Lake Forest CA 92630

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

10/17/2023
Date

Diep Quach
Printed Name

/s/ Diep Quach
Signature

SECTION 1 CONT.

DEBTOR'S ATTORNEY: Anerio V Altman LakeForestBankruptcy@jubileebk.net,
lakeforestpacer@gmail.com

NOTICE: Greg P Campbell ch11ecf@aldridgepite.com, gc@ecf.inforuptcy.com;
gcampbell@aldridgepite.com

NOTICE: Arturo Cisneros arturo@mclaw.org, CACD_ECF@mclaw.org

NOTICE: Michael J Hauser michael.hauser@usdoj.gov

NOTICE: Nathan F Smith nathan@mclaw.org, CACD_ECF@mclaw.org;
mcecfnotices@ecf.courtdrive.com; cvalenzuela@mclaw.org

EXHIBIT 1

WILLIAM G. MALCOLM, #129271
NATHAN F. SMITH, #264635
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: bill@mclaw.org; nathan@mclaw.org

Proposed Attorneys for Chapter 7 Trustee, A. Cisneros

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

In re:

JEFFREY S. BEIER,

Debtor.

Case No. 8:23-bk-10898-TA

Chapter 7

**TRUSTEE'S APPLICATION TO EMPLOY
THE LAW FIRM OF MALCOLM ♦
CISNEROS, A LAW CORPORATION, AS
GENERAL COUNSEL; DECLARATION OF
NATHAN F. SMITH IN SUPPORT HEREOF**

**[No Hearing Required Pursuant to Local
Bankruptcy Rule 2014-1(b)(1)]**

**TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY JUDGE;
THE OFFICE OF THE UNITED STATES TRUSTEE; DEBTOR; DEBTOR'S COUNSEL; AND
OTHER INTERESTED PARTIES:**

The Application of Chapter 7 Trustee, A. Cisneros ("Trustee"), respectfully represents as follows:

A. The Filing of the Petition and Subject Property.

1. This case was commenced on April 28, 2023, with the filing of a petition under Chapter 11 of the Bankruptcy Code (“Petition”). *See* Docket Entry (“DE”) 1.

2. Debtor’s previous Chapter 11 petition, filed on March 17, 2023, was dismissed on April 4, 2023. *See* United States Bankruptcy Court for the Central District of California, Santa Ana Division case number 8:23-bk-10556-TA, DE 13.

3. In his Schedules A/B and D, Debtor identified his ownership of the real property commonly known as 10 Tucson, Coto De Caza, California 92679 (“Property”), valued it at \$3,117,300, and identified a \$2,757,616 lien against it in favor of Bank of America, N.A. (“BOA”). *See* DE 1.

4. Trustee is informed that, prior to the filing of the Petition, Debtor operated the Property as a rental property and either Debtor or individuals authorized by Debtor received rents in connection with the Property (“Rental Income”).

5. In his Schedule D, Debtor identified BOA’s claim as “unliquidated” and “disputed.” *See* DE 1.

B. The Alleged Claim Against BOA.

6. In his Schedule A/B, Debtor identified a “Claim against Bank of America” and identified its value as “unknown” (“Alleged Claim Against BOA”). *See* DE 1.

C. The Deed of Trust Against the Property and Assignments Thereof.

7. Trustee is informed that, on March 8, 2005, a deed of trust, in the original, principal amount of \$1,470,000 was recorded against the Property in the Official Records of the Orange County Recorder’s Office as document number 2005000170527 (“Deed of Trust”). The Deed of Trust secures a promissory note, in the original, principal amount of \$1,470,000, which is dated March 2, 2005 and bears the signatures of Jeffrey S. Beier and Toni R. Beier.

8. On June 9, 2020, a Substitution of Trustee and Assignment of the Deed of Trust to The Bank of New York Mellon fka The Bank of New York as Successor in Interest to JPMorgan Chase Bank, N.A. as Trustee, BSALTA 2005-04 was recorded against the Property in the Official Records of the Orange County Recorder’s Office as document number 2010000269465.

9. On June 20, 2023, a Corrective Assignment of the Deed of Trust to The Bank of New

York Mellon fka The Bank of New York as Successor in Interest to JPMorgan Chase Bank, N.A. as Trustee, BSALTA 2005-04 (“BONY”) was recorded against the Property in the Official Records of the Orange County Recorder’s Office as document number 2023000146073.

D. The Motion to Extend the Automatic Stay and Motion to Dismiss or Convert.

10. On May 2, 2023, Debtor filed a Motion to Extend the Automatic Stay (“Motion to Extend”), which was initially set for hearing on May 23, 2023 and continued to June 27, 2023. *See* DE 9, 11, and 30.

11. On May 10, 2023, the Office of the United States Trustee filed a Motion to Dismiss or Convert Debtor’s case. *See* DE 18 and 34.

12. On May 11, 2023, BONY filed an opposition to the Motion to Extend. *See* DE 22.

E. The Stipulation to Appoint a Chapter 11 Trustee and Appointment of Trustee.

13. On June 2, 2023, Debtor and the Office of the United States Trustee stipulated to appointment of a Chapter 11 Trustee. *See* DE 36-37.

14. On June 7, 2023, Trustee was appointed as the Chapter 11 Trustee of Debtor’s bankruptcy estate. *See* DE 40.

15. On June 27, 2023, at the continued hearing on the Motion to Extend, the Court continued the automatic stay for a further 30 days from entry of an order on the Motion to Extend. *See* DE 52 and 64.

F. BONY’s Proof of Claim.

16. On July 12, 2023, The Bank of New York Mellon filed a secured proof of claim in the amount of \$2,786,180.50 based on the Note and Deed of Trust (“BONY Claim”). *See* Claims Register No. 2-1.

17. According to the BONY Claim, BOA is the servicer of the loan evidenced by a deed of trust in favor of BONY. *Id.*

G. Debtor’s Prior Bankruptcy Filings.

18. Trustee is informed that, prior to the filing of the Petition, Debtor filed the following, prior bankruptcy cases, each of which was dismissed:

a. United States Bankruptcy Court for the Central District of California, Santa Ana

Division case number 8:08-bk-12163-RK;

b. United States Bankruptcy Court for the Central District of California, Santa Ana

Division case number 8:09-bk-11124-TA;

c. United States Bankruptcy Court for the Central District of California, Santa Ana

Division case number 8:10-bk-19081-TA; and

d. United States Bankruptcy Court for the Central District of California, Santa Ana

Division case number 8:23-bk-10556-TA.

H. Debtor's Prior Lawsuits in Connection with the Deed of Trust.

19. Trustee is informed that Debtor filed the following lawsuits in the Superior Court of the State of California for the County of Orange in connection with the Property, each of which has been dismissed:

a. Orange County Superior Court case number 30-2011-00463450-CU-OR-CJC, styled as *Beier v. BAC Home Loans Servicing, LP, et al*;

b. Orange County Superior Court case number 30-2015-00788856-CU-OR-CJC, styled as *Beier v. The Bank of New York Mellon, et al*;

c. Orange County Superior Court case number 30-2017-01312331-CU-OR-CJC, styled as *Beier v. Bank of America, et al*; and

d. Orange County Superior Court case number 30-2023-01312331-CU-OR-CJC, styled as *Beier v. The Bank of New York Mellon, et al*.

I. The Conversion of the Case to Chapter 7 and Appointment of Trustee.

20. On July 7, 2023, following a status conference whereat Trustee made an unopposed oral motion to convert the case to Chapter 7, and pursuant to this Court's initial schedule order, the Court entered an order converting the case to Chapter 7. *See* DE 57.

21. On July 10, 2023, Trustee was appointed the Chapter 7 Trustee of the Estate. *See* DE 61.

22. On August 9, 2023, Trustee filed a Notice of Assets. The deadline to file proofs of claim is November 13, 2023. *See* DE 70.

23. The 11 U.S.C. § 341(a) was held and concluded on August 9, 2023.¹ *See* DE 71.

¹ All statutory references are to Title 11 of the United States Code unless otherwise indicated.

J. Trustee's Employment of a Real Estate Broker.

24. On July 27, 2023, Trustee filed an Application to Employ Brian Thompson ("Broker") as his real estate broker for the purposes of marketing and sale of the Property ("Broker Application"). *See* DE 66.

25. On August 9, 2023, Debtor filed an opposition to the Broker Application. *See* DE 72.

26. On August 31, 2023, Trustee filed a reply to Debtor's opposition, and the Application was granted at a hearing held on September 12, 2023. *See* DE 74 and 79.

K. The Marketing of the Property, Accepted Offer of \$3,070,000, and Overbid of \$3,200,000.

27. On June 28, 2023, Broker listed the Property for sale at \$3,000,000 on the Multiple Listing Service ("MLS"). Broker subsequently increased the listing asking price to \$3,070,000 on August 3, 2023. *See* DE 74.

28. Trustee has received and accepted an offer to purchase the Property for \$3,050,000 and has already received an overbid at \$3,200,000.

29. Trustee intends to file a motion to sell the Property pursuant to 11 U.S.C. §§ 363(f) and is hopeful that Debtor and BONY will agree to a settlement that will result in a reduced payoff to BOA in exchange for resolution of the Alleged Claim Against BONY.

L. Trustee's Proposed Retention of the Firm.

30. Trustee proposes to retain the law firm of Malcolm ♦ Cisneros, A Law Corporation ("Firm), as attorneys for Trustee, effective thirty (30) days prior to service of the Notice of Trustee's Intent to Employ Counsel, filed concurrently herewith, to represent him in the within bankruptcy case.

31. The Firm emphasizes its practice in bankruptcy and civil litigation, and is able to perform the required legal services. Trustee has selected the Firm because: (1) it has considerable experience in matters of this character, (2) is well qualified to represent him in this case, and (3) has already undertaken representation although there are currently no funds on hand. A copy of the professional biographies of the Firm's attorneys is attached and incorporated herein as Exhibit "1" to the Declaration of Nathan F. Smith, filed concurrently herewith.

///

M. The Scope of the Firm's Representation.

32. Trustee wishes to employ the Firm as his general counsel to *inter alia* review and analyze the Property, the Deed of Trust and Assignments thereof, Debtor's Alleged Claim Against BONY, the Rental Income, the BONY Claim, and to take any actions necessary to assist Trustee with his administration of this Estate, including, but not limited to negotiations with BONY, commencing fraudulent transfer actions in connection with the Rental Income, filing a motion to sell the Property, preparing a settlement agreement in connection with a potential resolution of the Alleged Claim Against BONY, and filing a motion to approve such agreement in the event one is reached.

33. The Firm emphasizes its practice in bankruptcy and civil litigation, and is well able to perform the required legal services efficiently and economically. There is no retainer or fee agreement between Trustee and the Firm, other than as outlined herein. Legal services are now, and will be, required in order to:

- a) advise Trustee on all matters pertaining to the Property, including, but not limited to, the Deed of Trust, Alleged Claim Against BONY, and BONY Claim, selling the Property, and the maximization of the return to the Estate;
- b) advise Trustee on all matters pertaining the Rental Income, including filing a fraudulent transfer action in connection with it;
- c) evaluate avoidance actions, and, if necessary, prosecute them;
- d) take actions necessary to liquidate the assets of the Estate;
- e) prepare and file all documents necessary to obtain Court approval of any compromises and court appearances as necessary;
- f) legal examination of claims, including the BONY Claim, and any litigation including claims negotiations, prepare and file objections and Court appearances as required;
- g) examine witnesses, claimants or adverse parties with respect to any action where the rights of the Estate or Trustee may be affected; and
- h) perform any and all other legal services necessary to protect the rights of Trustee and the Estate.

34. To the best of Trustee's knowledge, the Firm and each of its members and associates who will work on this case are familiar and shall comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules.

35. Neither Trustee nor the Firm has a pre-petition claim against the Estate.

36. The Firm has no connection with any insider of Debtor or any affiliate of an insider of Debtor.

37. The Firm has never represented any related debtor in a bankruptcy case in this or any other Court. The Firm does not presently represent a related debtor.

38. To the best of Trustee's knowledge, neither the Firm, any member of the Firm, or any associate of the Firm has any connection with Debtor, creditors of the Estate, or any other party in interest or their representative attorneys or accountants nor any interest in this Estate, adverse or otherwise, and are disinterested as defined by § 101(14), except as set forth in the Declaration of Nathan F. Smith.

39. To the best of Trustee's knowledge, neither the Firm or any member or associate of the Firm is related to or has any connection with the OUST, or any person employed in the OUST, except that A. Cisneros, a shareholder of the Firm, currently serves as a panel trustee on the Riverside Panel of Bankruptcy Trustees and a Subchapter V Trustee in the Central District of California and Nathan F. Smith currently serves as a Subchapter V Trustee in the District of Nevada. Additionally, Trustee has hired the Firm to represent him in unrelated matters.

40. The Firm will apply for compensation not more frequently than once every 120 days, after notice and a hearing, as required by the Bankruptcy Code. The Firm will accept as compensation such sum as the Court deems reasonable. There will be no written employment agreement, separate from this Application and the order to be obtained hereon; and the only source of payment of compensation is the Estate.

41. The Firm will seek compensation pursuant to §§ 330 and 331. The hourly billing rate of attorneys of the Firm range from \$250 to \$575/hour, and paralegal rates range from \$130 to \$220/hour. Attached hereto as Exhibit "2" to the Declaration of Nathan F. Smith is a schedule of the current hourly rates that are regularly charged by the Firm. These rates may change from time to time. The hourly rates

1 in effect as this case progresses will be a factor upon which the Firm will base its request for
2 compensation.

3 42. Notice of this Application is being filed and served concurrently herewith pursuant to
4 Local Bankruptcy Rule 2014-1(b)(2).

5 43. A copy of the Application is available upon written request by contacting Erica Pedraza
6 at Malcolm ♦ Cisneros, A Law Corporation, 2112 Business Center Drive, Irvine, CA 92612, telephone
7 number (949) 252-9400, facsimile (949) 252-1032.

8 **PLEASE TAKE NOTICE** that if you do not oppose the proposed employment, you need not
9 take further action. Pursuant to Local Bankruptcy Rule 2014-1(b)(3)(E), any opposition to the
10 Application and request for hearing must be filed with the Court in the form required by Local
11 Bankruptcy Rule 9013-1(f)(1) and served upon proposed counsel for Trustee at the address indicated in
12 the upper-left hand corner of the first page of this document and OUST no later than 14 days from the
13 date of the service of this notice. Failure to timely file and serve an opposition, response or request for
14 hearing may be deemed consent to the relief sought in the Application.

15 **WHEREFORE**, Trustee prays for an Order authorizing him to retain the Firm as his attorneys,
16 with respect to the matters referred to in this Application and upon the terms and conditions set forth
17 herein, effective thirty (30) days prior to service of the Notice of Trustee's Intent to Employ Counsel,
18 filed concurrently herewith.

19
20 DATED: September 26, 2023



A. CISNEROS
Chapter 7 Trustee

22 DATED: September 26, 2023

Malcolm ♦ Cisneros, A Law Corporation

24 By: /s/ Nathan F. Smith
NATHAN F. SMITH
Proposed Attorneys for Chapter 7 Trustee, A.
Cisneros

DECLARATION OF NATHAN F. SMITH

I, Nathan F. Smith, declare as follows:

1. I am over the age of eighteen and competent to make this declaration. I am a partner of the firm of Malcolm ♦ Cisneros, A Law Corporation (“Firm”). All members and associates of the Firm who will work on this case are admitted to practice law in the State of California and before this Court. I have personal knowledge of the facts stated herein, and if called as a witness, I could and would testify competently thereto.

2. Unless otherwise noted, capitalized terms in this Declaration have the meaning as set forth in the Application to Employ the Firm.

3. Trustee has requested that the Firm be retained as attorneys for the Estate, effective thirty (30) days prior to service of the Notice of Trustee’s Intent to Employ Counsel, filed concurrently herewith.

4. The Firm has considerable experience in matters of this character and is well qualified to represent the estate in this case. There is no retainer or fee agreement between Trustee and the Firm other than as outlined herein. Legal services are now, and will be, required in order to:

- a) advise Trustee on all matters pertaining to the Property, including, but not limited to, the Deed of Trust, Alleged Claim Against BONY, and BONY Claim, selling the Property, and the maximization of the return to the Estate;
- b) advise Trustee on all matters pertaining the Rental Income, including filing a fraudulent transfer action in connection with it;
- c) evaluate avoidance actions, and, if necessary, prosecute them;
- d) take actions necessary to liquidate the assets of the Estate;
- e) prepare and file all documents necessary to obtain Court approval of any compromises and court appearances as necessary;
- f) legal examination of claims, including the BONY Claim, and any litigation including claims negotiations, prepare and file objections and Court appearances as required;
- g) examine witnesses, claimants or adverse parties with respect to any action where

the rights of the Estate or Trustee may be affected; and

h) perform any and all other legal services necessary to protect the rights of Trustee and the Estate.

5. The Firm has no connection with Debtor, any insider of Debtor, or any affiliate of an insider of Debtor.

6. Each of the Firm's members and associates who will work on this case are familiar and will comply with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules.

7. Neither the Firm nor I have a pre-petition claim against the Estate.

8. The Firm has never represented any related debtor in a bankruptcy case in this or any other Court and the Firm does not presently represent a related debtor.

9. To the best of my knowledge, neither the Firm, any member of the Firm, or any associate of the Firm, has any connection with Debtor, creditors, or any other party in interest or their representative attorneys or accountants, and represents no interest in this Estate, adverse or otherwise, and are disinterested as defined by § 101(14).

10. I am informed and believe that no conflict of interest exists or is anticipated from the Firm's representation of Trustee in this matter. However, in the unlikely event that a potential conflict arises, I understand that Trustee would employ special counsel in order to avoid any such potential conflict.

11. To the best of my knowledge, neither the Firm or member or associates of the Firm is related to or has any connection with the OUST, or any person employed in the OUST, except that A. Cisneros, a shareholder of the Firm, currently serves as a panel trustee on the Riverside Panel of Bankruptcy Trustees and a Subchapter V Trustee in the Central District of California and Nathan F. Smith currently serves as a Subchapter V Trustee in the District of Nevada. Additionally, Trustee has hired the Firm to represent him in unrelated matters.

12. The Firm will accept as compensation such amount as may hereafter be allowed by this Court. Attached and incorporated as Exhibit "1" is the Firm's biography, which sets forth the Firm's experience.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **2112 Business Center Drive, 2nd Floor, Irvine, CA 92612**

A true and correct copy of the foregoing document entitled (specify): **TRUSTEE'S APPLICATION TO EMPLOY THE LAW FIRM OF MALCOLM ♦ CISNEROS, A LAW CORPORATION, AS GENERAL COUNSEL; DECLARATION OF NATHAN F. SMITH IN SUPPORT HEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **September 27, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

OFFICE OF U.S. TRUSTEE: United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov
CHAPTER 7 TRUSTEE: Arturo Cisneros (TR) amctrustee@mclaw.org, acisneros@iq7technology.com;
ecf.alert+Cisneros@titledxi.com

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On (date) **September 27, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR: Jeffrey S Beier, P O Box 7644, Laguna Niguel, CA 92677

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) **September 26, 2023**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

September 27, 2023
Date

Diep Quach
Printed Name

/s/ Diep Quach
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

SECTION 1 CONT.

DEBTOR'S ATTORNEY: Anerio V Altman LakeForestBankruptcy@jubileebk.net, lakeforestpacer@gmail.com

NOTICE: Greg P Campbell ch11ecf@aldridgepite.com, gc@ecf.inforuptcy.com; gcampbell@aldridgepite.com

NOTICE: Arturo Cisneros arturo@mclaw.org, CACD_ECF@mclaw.org

NOTICE: Michael J Hauser michael.hauser@usdoj.gov

NOTICE: Nathan F Smith nathan@mclaw.org, CACD_ECF@mclaw.org; mcecfnotices@ecf.courtdrive.com;
cvalenzuela@mclaw.org

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central
District of California.



ATTORNEY BIOGRAPHIES

PARTNERS

WILLIAM G. MALCOLM

William G. Malcolm is a co-founding member of the Firm and was born in Palo Alto, California in 1959. He received his Bachelor of Science and Juris Doctor from the University of Santa Clara in 1982 and 1985, respectively. Mr. Malcolm was admitted to the State Bar of California in 1987 and the State Bar of Texas in 2005. He is also admitted to practice in the Fifth and Ninth Circuit Courts of Appeal, and the United States Supreme Court.

Mr. Malcolm served as Law Clerk to both the Honorable Richard Mednick, U.S. Bankruptcy Court Judge for the Central District of California, Los Angeles Division, and the Honorable John E. Ryan, U.S. Bankruptcy Court Judge for the Central District of California, Santa Ana Division. Mr. Malcolm has served as a mediator in the Central District Bankruptcy Mediation Program. He was also chosen by Freddie Mac to serve on its prestigious Default Advisory Group in the lawyer designate position for a one-year term (only one lawyer is chosen throughout the country).

Mr. Malcolm has served as a member of the Orange County Bankruptcy Forum's Special Projects Committee, providing continuing education to members of the Bankruptcy bar. He has co-authored continuing education materials for the California Continuing Education of the Bar on the topic of Complex Bankruptcy Litigation. Mr. Malcolm has also served as a Board of Governor for Legatus International, a Catholic organization of approximately 1600 CEO's and managing partners.

Memberships: Mortgage Banker's Association; Orange County Bar Association; Orange County Bankruptcy Forum; and the Inland Empire Bankruptcy Forum.

ARTURO M. CISNEROS

Arturo M. Cisneros is a co-founding member of the Firm and was born in San Bernardino, California in 1959. He received his Bachelor of Arts and Juris Doctor from the University of California, Los Angeles in 1981 and 1984, respectively. Mr. Cisneros was admitted to the State Bar of California in 1985. He is also admitted to practice before the Ninth Circuit Court of Appeals and the United States Supreme Court.

In 1984, Mr. Cisneros served as Law Clerk to the then Chief United States Bankruptcy Judge for the Central District of California, Los Angeles, the Honorable William J. Lasarow. He went on to serve as Law Clerk to the Honorable John J. Wilson, U.S. Bankruptcy Judge for the Central District of California, San Bernardino Division in 1985. Mr. Cisneros was also the Staff Attorney for the standing Chapter 13 Trustee in Santa Ana and San Bernardino Divisions of the U.S. Bankruptcy Court for the Central District of California.

In 1993, Mr. Cisneros was appointed to serve as a Bankruptcy Panel Trustee by the Office of the U.S. Trustee for the Central District of California, Riverside Division, a position in which he continues to serve. Mr. Cisneros also served as a Central District Lawyer Representative to the Ninth Circuit Judicial Conference from 1996-1998. He formerly served as President of the Inland Empire Bankruptcy Forum, President of the Hispanic Bar Association of Orange County, and was previously on the Board of Directors of the Los Angeles Chapter of the Mexican-American Bar Association. He is also a founding member of the Hispanic Education Endowment Fund of Orange County.

The legal publication *Martindale-Hubbell* has awarded Mr. Cisneros an “AV” rating based upon the recommendations of fellow attorneys, recognizing him for excellence in both legal practice and professional ethics.

Memberships: Federal Bar Association; Riverside County Bar Association; Orange County Bar Association; President’s Circle of the National Association of Bankruptcy Trustees; and the Inland Empire Bankruptcy Forum.

NATHAN F. SMITH

Nathan F. Smith is a Partner with the Firm. He was born in East Grand Rapids, Michigan, and received his Bachelor of Arts in Political Science, with a Minor in History, from Western Michigan University in 2005. In 2009, Mr. Smith earned his Juris Doctor from Chapman University School of Law, where he was the recipient of the Tax Law Emphasis Certificate, the CALI Excellence for the Future Award, and the Commitment to Service, Pro Bono Award. Mr. Smith also served a judicial externship to the Honorable Theodor C. Albert, United States Bankruptcy Court Judge for the Central District of California, Santa Ana Division.

Mr. Smith joined the Firm as a Summer Associate in 2008 and became an Associate upon his admission to the California Bar in 2009. Mr. Smith specializes in the representation of financial institutions in bankruptcy proceedings, civil litigation, contract negotiations, judicial foreclosure actions, receivership matters, and state and federal appeals. He has extensive experience in Chapter 11 business reorganization proceedings as well as consumer bankruptcy proceedings under Chapters 7, 12, and 13. Additionally, Mr. Smith serves as a Subchapter V Trustee in the United States Bankruptcy Court for the District of Nevada.

In addition to California, Mr. Smith is admitted to practice in Washington (2010); Minnesota (2011); Hawaii (2011); Oregon (2012); Nevada (2012); Arizona (2012); Michigan (2013); Colorado (2015); Texas (2015); and New Mexico (2015); and before the Fifth, Sixth, Seventh, Ninth, Tenth, and Eleventh Circuit Courts of Appeal; the United States Supreme Court; and the United States Tax Court. Mr. Smith is also a licensed real estate broker in the State of California.

Memberships: American Bankruptcy Institute; American Bar Association (Business Bankruptcy Committee); Orange County Bar Association; Los Angeles County Bar Association; Orange County Bankruptcy Forum; Los Angeles County Bankruptcy Forum; Inland Empire Bankruptcy Forum; Multnomah County Bar Association; and King County Bar Association.

NICOLAS MATAYRON

Nicolas Matayron is a partner with the Firm. Mr. Matayron was born in Montauban, France and received his License in Law, the equivalent of a LL.B, in nearby Toulouse. Mr. Matayron went on to receive a Master in International Business Law from the University of Paris-1-Sorbonne and an advanced Master in Business Law and Management from the ESSEC Business School in Paris. Mr. Matayron trained in international franchise law contracts, particularly FTC regulations and international transactions, at a Parisian law firm, later working at the corporate headquarters of a European bank where he focused on intellectual property contractual schemes, consumer law, and banking law compliance.

In 2009, Mr. Matayron received his LL.M in Comparative Law from the University of San Diego, School of Law. Mr. Matayron has been a member of the State Bar of New York since 2010, of the State Bar of California since 2015 and of the State Bar of Washington since 2019. Mr. Matayron is admitted to practice in the United States District Courts for the Central, Eastern, Northern, and Southern Districts of California.

Memberships: Orange County Bar Association; Los Angeles County Bar Association.

SENIOR COUNSEL

CHARLES W. NUNLEY

Charles W. Nunley is a senior litigation attorney with the Firm. Mr. Nunley has significant experience representing financial institutions in matters involving lender liability claims, alleged unlawful foreclosure and unfair debt collection, unlawful eviction, title disputes, probate litigation, creditor claims in bankruptcy adversary proceedings, code violations, title insurance claims and commercial and residential receiverships. Mr. Nunley is responsible for handling pretrial litigation, mediation, settlement, trial, and appellate matters within in the state and federal courts of California.

Mr. Nunley earned his Juris Doctor from Santa Clara University in 1983 and is admitted to practice before all state and federal courts in California.

Before joining the Firm in 2008, Mr. Nunley was a trial attorney in private practice and participated in jury and court trials of landmark intellectual property and securities cases as well as mass toxic tort matters. Over the past 25 years, Mr. Nunley has focused exclusively on representing secured lenders and servicers in the state and federal courts of California, Oregon, Washington, Nevada, and Arizona.

Memberships: Los Angeles Bar Association and the Santa Clara County Bar Association.

HYDEE J. RIGGS

Hydee J. Riggs has significant experience in the area of bankruptcy law including the representation of numerous Chapter 7 Trustees and secured and unsecured creditors in Chapter 7, 11, and 13 bankruptcy proceedings and litigation. Ms. Riggs further specializes in business litigation, including real estate, commercial and collection matters, creditors' rights, and the representation of receivers.

Ms. Riggs received her undergraduate degree from the University of Southern California and earned her Juris Doctor from Loyola Law School of Los Angeles. She is licensed to practice in the State of California, the United States Supreme Court, and the United States District Courts in the Northern, Eastern, Central, and Southern Districts of California.

Ms. Riggs has further prepared and presented numerous legal education seminars and authored various legal articles in the areas of her specialization.

Memberships: Orange County Bar Association, Bankruptcy and Business Litigation Sections; Orange County Bankruptcy Forum; and the Inland Empire Bankruptcy Forum.

GRANT COURTNEY

Grant Courtney is a senior attorney with the Firm's Foreclosure Mediations Department. In 1981, Mr. Courtney received his Bachelor of Arts from Harvard University. He earned his Juris Doctor in 1986 from University of Notre Dame.

Mr. Courtney has significant experience representing financial institutions in matters involving bankruptcy proceedings, state and federal receiverships, commercial litigation, real estate foreclosures, collection actions and replevin/garnishment. Mr. Courtney is responsible for handling foreclosure actions (including mediations) in Washington..

Over the years, Mr. Courtney has focused on representing primarily secured and unsecured creditors, lending institutions and bankruptcy trustee in bankruptcy practice and commercial transactions and commercial litigation. Mr. Courtney is admitted to practice before the state and federal courts in Washington since 1986 and the State of Oregon since 2017, respectively.

Memberships: American Bar Association; Washington State Bar Association and American Bankruptcy Institute

KRIS J. SUNDBERG

Kris J. Sundberg is the Firm's managing senior attorney in Washington. He earned his bachelor degree in economics from the University of Washington in 1972. His Juris Doctor degree was awarded by the Marshall-Wythe School of Law, College of William and Mary in 1976. Mr. Sundberg is a member of the Virginia Bar (inactive), District of Columbia Bar (inactive), Washington Bar and Oregon Bar. He has practiced in the field of real estate law for over 30 years and has extensive experience with foreclosures, judgment executions and foreclosure prevention mediations.

SAMUEL R. BURTON

Samuel R. Burton is an associate in the Firm's Foreclosure Mediations Department. Mr. Burton was born in Stockton, California and raised in the Portland, Oregon area. In 2003, Mr. Burton received his Bachelor of Arts in History from Western Oregon University. He earned his Juris Doctor in 2009 from Valparaiso Law School. While attending Valparaiso Law School, Mr. Burton worked for an immigration attorney in Chicago working with people from all over the world.

After law school, Mr. Burton returned to Oregon and began working on judicial foreclosures. Later in 2014 Mr. Burton transitioned to a full time mediations attorney in the Oregon Foreclosure Avoidance Program. Mr. Burton's mediation experience in the Oregon Foreclosure Avoidance Program includes attending mediations, working directly with borrowers, and a vast experience in navigating the pre-foreclosure process. Mr. Burton was admitted to the Oregon State Bar in 2013, and is admitted to practice in the United States District Court for the District of Oregon.

ASSOCIATES

BRIAN THOMLEY

Brian Thomley is a senior associate in the Firm's Civil Litigation Department. Mr. Thomley graduated *magna cum laude* from the University of North Carolina at Charlotte in 2004, with a Bachelor of Arts in Religious Studies. He earned his Juris Doctor from Chapman University School of Law in 2009, having graduated second in his class. Mr. Thomley was Production Editor for the Chapman Law Review and authored the Comment, *Nothing is Sacred: Why Georgia and California Cannot Bar Contractual Jury Waivers in Federal Court*, 12 Chap. L. Rev. 127 (2008). He was a member of the Moot Court Honors Board, and participated in the national Conrad Duberstein Bankruptcy Competition. He served as an extern for the Honorable Robert N. Kwan of the U.S. Bankruptcy Court for the Central District of California.

Upon graduation, Mr. Thomley served as law clerk for Judge Kwan from 2009-2010. He assisted Judge Kwan with Bankruptcy Appellate Panel matters, and contributed to an opinion on the burden of proof applicable to objections to exemptions on the ground of bad faith, *Tyner v. Nicholson* (*In re Nicholson*), 435 B.R. 622 (9th Cir. BAP 2010).

Mr. Thomley manages the Firm's appellate practice and authored briefs in opinions, such as *Herrera v. Federal National Mortgage Association*, 205 Cal. App. 4th 1495 (2012) and *Chavez v. IndyMac Mortgage Services*, 2013 WL 5273741 (Ct. App. Sept. 19, 2013). He is a member of both the State Bar of California and the State Bar of North Carolina. He is admitted to practice in the United States District Courts for the Central, Eastern, Northern, and Southern Districts of California.

CHRISTINA J. KHIL

Christina J. Khil is an associate in the Firm's Bankruptcy Department and was raised in Los Angeles County, California. In 2002, Ms. Khil received her Bachelor of Arts in Criminology, Law and Society, with a Minor in History from the University of California, Irvine. She earned her Juris Doctor in 2009 from Whittier Law School, where she received a Business Law Emphasis Certificate. While attending Whittier Law School, Ms. Khil was the Articles Editor of the Whittier Journal of Child and Family Advocacy.

Ms. Khil joined the Firm in 2010 and specializes in the representation of financial institutions in bankruptcy proceedings, post-sale litigation and claim matters. Ms. Khil's experience in the area of bankruptcy law further includes the representation of Chapter 7 trustees, involving asset review, debtor examinations, settlement negotiations and obtaining approval of compromises, sale of estate assets, turnover of estate assets and adversary proceedings. Ms. Khil was admitted to the State Bar of California in 2009, and is admitted to practice in the United States District Courts for the Central, Eastern, Northern, and Southern Districts California.

Memberships: Orange County Bar Association; Inland Empire Bankruptcy Forum.

MELISSA SGROI

Melissa Sgroi is an associate in the Firm's Civil Litigation Department. Ms. Sgroi graduated from the Santa Clara University, with a Bachelor of Arts in Philosophy and a Bachelor of Science in Political Science in 2005. She earned her Juris Doctor from Santa Clara University School of Law in 2009 with honors. Ms. Sgroi participated in Santa Clara's Law Review and was the Secretary of Santa Clara's Student Bar Association. She was also a member of the Moot Court Honors Society.

Upon graduating from law school, Ms. Sgroi worked on bankruptcy and appellate matters in Michigan before returning to California to join the Firm's Civil Litigation Division. At the Firm, she has managed the unlawful detainer department while litigating cases on behalf of owners to recover possession of rent control, residential and commercial assets. She has also litigated complex matters on behalf of lenders to defend their interests in real and personal property disputes, and reviewed and analyzed mortgage transactions and closing of loans to fund acquisition, development and construction of commercial and residential real estate.

She is a member of the State Bar of California and admitted to practice in the United States District Courts for the Central, Eastern, Northern, and Southern Districts of California.

Memberships: Orange County Bar Association and Santa Clara Bar Association

ESTHER TORRES SMITH

Esther Torres Smith is an associate in the Firm's Judicial Foreclosure and Litigation Departments and was raised in Riverside County, California. In 2004, Mrs. Smith received her Bachelor of Arts in Political Science with an emphasis in Law and Society from the University of California, Riverside. She earned her Juris Doctor in 2008 from Western State University College of Law, where she received a Pro Bono Assistance Award. While attending Western State University College of Law, Mrs. Smith was a law clerk with Inland Empire Latino Lawyers Association assisting with their civil litigation and unlawful detainer departments.

Before joining the Firm, Mrs. Smith was Debtor's counsel at a small law firm in Murrieta, California. Mrs. Smith joined the Firm in 2013 as one of the attorney managers for the judicial foreclosure department. In addition to managing the judicial foreclosure department, Mrs. Smith has expanded her role to assisting with mediations and litigation cases.

Mrs. Smith was admitted to the State Bar of California in 2009 and is admitted to practice in the United States District Court for the Central District of California.

Memberships: Inland Empire Bankruptcy Forum

DENISE LEE

Denise Lee is an associate attorney in the Firm's Judicial Foreclosure Department. Born and raised in Orange County, California, she received her Bachelor of Arts in International Studies-Political Science and History from the University of California, San Diego. In 2013, she earned her Juris Doctor from Southwestern University School of Law where she received recognition for her commitment to public service. During her time at law school, Ms. Lee interned with the Orange County Public Defender's Office, and served as a judicial extern for United States Magistrate Judge Stephen J. Hillman in the United States District Court, Central District.

Ms. Lee was admitted to the State Bar of California in 2014, and is admitted to practice in the United States District Courts for the Central and Northern Districts. She joined the Firm in 2017 and specializes in judicial foreclosure proceedings. Prior to joining the Firm, Ms. Lee practiced in the areas of general business, civil litigation, and employment law representing businesses and employers.

LAW CLERK

RYLIA TJOKROSOEHARTO

Rylia Tjokrosoeharto, a law clerk with the Firm's Title Department, received her Bachelor of Arts Degree in Political Science from the University of California, Riverside in 2003, and earned her Juris Doctorate from Trinity Law School in 2008. Mrs. Tjokrosoeharto has been employed for over ten years in civil litigation law firms in Orange County, specializing in civil litigation, construction defect and insurance defense, representing a number of prominent home developers and construction related companies, where she coordinated and managed complex multi-party litigation cases up to trial.

PARALEGALS

MELISSA D. FUSCO

Melissa D. Fusco is a paralegal, and Director of the Litigation Department of the Firm currently encompassing the subprocesses of Judicial Foreclosures, Mediations, Probate, Quality Control and Compliance. Prior to that Ms. Fusco was the Manager of the Freddie Mac Designated Counsel Program for California and Nevada, and launched the eviction processes for the Firm. Ms. Fusco was born in New Haven, Connecticut in 1959, and received her Bachelor of Arts in History from California State University, Fullerton in 1983. In 1984, she received her paralegal certificate from the University of San Diego. Prior to joining the Firm, Ms. Fusco was employed at a prominent Orange County bankruptcy and commercial litigation firm, where she managed the consumer bankruptcy department and bankruptcy litigation paralegal.

ERNEST R. CISNEROS

Ernest R. Cisneros is a paralegal and the Director of the Firm's Bankruptcy Department. Mr. Cisneros was born in San Bernardino, California in 1967, received his Bachelor of Arts in Political Science from the University of California, Los Angeles in 1989, and attended law school at Western State University. Prior to joining the Firm, Mr. Cisneros served as a legal research analyst to Shannon J. Haney, the Chapter 13 Trustee for the San Bernardino and Santa Ana Divisions of the Central District. Mr. Cisneros is the Director of the Firm's Bankruptcy Department.

MAYRA JOHNSON

Mayra Johnson received her Bachelor of Arts Degree in Political Science from the University of California, Riverside in 2008. Prior to joining the Firm, Ms. Johnson served as a bankruptcy legal assistant to a firm specializing in debtor representation. Ms. Johnson joined the Firm in May of 2014 as an administrative assistant in the Trustee Department at the Riverside office, and was promoted to Trustee Administrator in 2015. Ms. Johnson is a member of the Inland Empire Bankruptcy Forum and a Notary Public.

LEILANI COLON DIAZ

Leilani Colon Diaz is an Eviction Paralegal at the Firm, born in San Juan, Puerto Rico in 1988. Ms. Colon began her legal career in 2014 as Eviction Specialist assisting investors such as Freddie Mac, Fannie Mae, and Roosevelt Management during the eviction process throughout 35 states and has acquired extensive experience in REO Properties for more than ten years. In May 2013 Ms. Colon received her NMLS license and in May 2019, Ms. Colon received her Associate Degree in Business Administration from National University, Puerto Rico. Ms. Colon joined the Firm in May 2019.

ERICA F. PEDRAZA

Erica F. Pedraza, a paralegal, was born in Walla Walla, Washington in 1981. Ms. Pedraza received her Associates of Arts Degree in Paralegal Studies from Santa Ana College in 2005. Ms. Pedraza is currently a supervisor in the Bankruptcy Department. Ms. Pedraza's emphasis is relief from stay matters but she also has experience preparing proofs of claim, objections to claim, and objections to confirmation. Ms. Pedraza also assists attorneys with pleadings related to representation of bankruptcy trustees. Ms. Pedraza also handles matters related to surplus proceeds from foreclosure sales.

RHONDA WHITE

Rhonda White is a bankruptcy supervisor at the Firm and was born in Stanton, California in 1963. Ms. White began her legal career in July, 1998 as a paralegal in a firm representing creditors in bankruptcy matters and has acquired extensive experience in the bankruptcy field for more than nineteen years. In May 2000, Ms. White received her paralegal certificate and Associate in Arts degree from Saddleback College, Mission Viejo. Ms. White joined the Firm in December, 2014 as a supervisor in the Bankruptcy Department.



2023 Hourly Rate Schedule

PARTNERS

William G. Malcolm	\$575.00
Arturo M. Cisneros	\$575.00
Nathan F. Smith	\$505.00
Nicolas Matayron	\$450.00

SENIOR COUNSEL

Charles W. Nunley	\$500.00
Hydee J. Riggs	\$475.00
Grant Courtney	\$450.00
Kris J. Sundberg	\$450.00
Samuel R. Burton	\$400.00

ASSOCIATES

Brian Thomley	\$425.00
Christina J. Khil	\$375.00
Melissa Sgroi	\$375.00
Esther Torres Smith	\$350.00
Denise Lee	\$350.00

LAW CLERK

Rylia Tjokrosoeharto	\$225.00
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PARALEGALS

Melissa Fusco	\$200.00
Ernest Cisneros	\$200.00
Mayra Johnson	\$200.00
Leilani Colon Diaz	\$150.00
Erica F. Pedraza	\$130.00
Rhonda White	\$130.00

Exhibit 2

EXHIBIT 2

WILLIAM G. MALCOLM, #129271
NATHAN F. SMITH, #264635
MALCOLM ♦ CISNEROS, A Law Corporation
2112 Business Center Drive
Irvine, California 92612
Phone: (949) 252-9400
Fax: (949) 252-1032
Email: bill@mclaw.org; nathan@mclaw.org

Proposed Attorneys for Chapter 7 Trustee, A. Cisneros

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

In re:

JEFFREY S. BEIER,

Debtor.

Case No. 8:23-bk-10898-TA

Chapter 7

**NOTICE OF TRUSTEE'S INTENT TO
EMPLOY THE LAW FIRM OF MALCOLM ♦
CISNEROS, A LAW CORPORATION, AS
GENERAL COUNSEL**

**[No Hearing Required Pursuant to Local
Bankruptcy Rule 2014-1(b)(1)]**

**TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY JUDGE;
THE OFFICE OF THE UNITED STATES TRUSTEE, DEBTOR, DEBTOR'S COUNSEL, AND
OTHER INTERESTED PARTIES:**

PLEASE TAKE NOTICE that A. Cisneros, the duly appointed and qualified Chapter 7 Trustee ("Trustee") for the bankruptcy estate of Jeffrey S. Beier ("Debtor"), intends to file an application to employ the firm of Malcolm ♦ Cisneros, A Law Corporation ("Firm"), as general counsel for Trustee, pursuant to 11 U.S.C. § 327.¹ Employment of Firm shall be effective August 28, 2023. Pursuant to Local Bankruptcy Rule 2014-1(b)(3), Trustee hereby provides the following information regarding the Application to Employ ("Application"):

¹ All statutory references are to Title 11 of the United States Code unless otherwise indicated.

**I. THE IDENTIFICATION OF THE PROFESSIONAL, PURPOSE, AND SCOPE
OF EMPLOYMENT.**

1. This case was commenced on April 28, 2023, with the filing of a petition under Chapter 11 of the Bankruptcy Code (“Petition”).

2. Debtor’s previous Chapter 11 petition, filed on March 17, 2023, was dismissed on April 4, 2023. *See* United States Bankruptcy Court for the Central District of California, Santa Ana Division case number 8:23-bk-10556-TA, DE 13.

3. In his Schedules A/B and D, Debtor identified his ownership of the real property commonly known as 10 Tucson, Coto De Caza, California 92679 (“Property”), valued it at \$3,117,300, and identified a \$2,757,616 lien against it in favor of Bank of America, N.A. (“BOA”). *See* DE 1.

4. Trustee is informed that, prior to the filing of the Petition, Debtor operated the Property as a rental property and either Debtor or individuals authorized by Debtor received rents in connection with the Property (“Rental Income”).

5. In his Schedule D, Debtor identified BOA’s claim as “unliquidated” and “disputed.” *See* DE 1.

6. On June 2, 2023, Debtor and the Office of the United States Trustee stipulated to appointment of a Chapter 11 Trustee. *See* DE 36-37.

7. On June 7, 2023, Trustee was appointed as the Chapter 11 Trustee of Debtor’s bankruptcy estate. *See* DE 40.

8. On June 27, 2023, at the continued hearing on the Motion to Extend, the Court continued the automatic stay for a further 30 days from entry of an order on the Motion to Extend. *See* DE 52 and 64.

9. On July 7, 2023, following a status conference whereat Trustee made an unopposed oral motion to convert the case to Chapter 7, and pursuant to this Court’s initial schedule order, the Court entered an order converting the case to Chapter 7. *See* DE 57.

10. On July 10, 2023, Trustee was appointed the Chapter 7 Trustee of the Estate. *See* DE 61.

11. On August 9, 2023, Trustee filed a Notice of Assets. The deadline to file proofs of claim is November 13, 2023. *See* DE 70.

12. The 11 U.S.C. § 341(a) was held and concluded on August 9, 2023.² See DE 71.

13. On July 27, 2023, Trustee filed an Application to Employ Brian Thompson (“Broker”) as his real estate broker for the purposes of marketing and sale of the Property (“Broker Application”). See DE 66.

14. On August 9, 2023, Debtor filed an opposition to the Broker Application. See DE 72.

15. On August 31, 2023, Trustee filed a reply to Debtor’s opposition, and the Application was granted at a hearing held on September 12, 2023. See DE 74 and 79.

16. On June 28, 2023, Broker listed the Property for sale at \$3,000,000 on the Multiple Listing Service (“MLS”). Broker subsequently increased the listing asking price to \$3,070,000 on August 3, 2023. See DE 74.

17. Trustee has received and accepted an offer to purchase the Property for \$3,050,000 and has already received an overbid at \$3,200,000.

18. Trustee proposes to retain the law firm of Malcolm ♦ Cisneros, A Law Corporation (“Firm), as attorneys for Trustee, effective thirty (30) days prior to service of the Notice of Trustee’s Intent to Employ Counsel, to represent him in the within bankruptcy case.

19. The Firm emphasizes its practice in bankruptcy and civil litigation, and is able to perform the required legal services. Trustee has selected the Firm because: (1) it has considerable experience in matters of this character, (2) is well qualified to represent him in this case, and (3) has already undertaken representation although there are currently no funds on hand. A copy of the professional biographies of the Firm’s attorneys is attached and incorporated herein as Exhibit “1” to the Declaration of Nathan F. Smith, filed concurrently herewith.

20. Trustee wishes to employ the Firm as his general counsel to *inter alia* review and analyze the Property, the Deed of Trust and Assignments thereof, Debtor’s Alleged Claim Against BONY, the Rental Income, the BONY Claim, and to take any actions necessary to assist Trustee with his administration of this Estate, including, but not limited to negotiations with BONY, commencing fraudulent transfer actions in connection with the Rental Income, filing a motion to sell the Property,

² All statutory references are to Title 11 of the United States Code unless otherwise indicated.

1 preparing a settlement agreement in connection with a potential resolution of the Alleged Claim Against
2 BONY, and filing a motion to approve such agreement in the event one is reached.

3 21. The Firm emphasizes its practice in bankruptcy and civil litigation, and is well able to
4 perform the required legal services efficiently and economically. There is no retainer or fee agreement
5 between Trustee and the Firm, other than as outlined herein. Legal services are now, and will be,
6 required in order to:

- 7 a) advise Trustee on all matters pertaining to the Property, including, but not limited
8 to, the Deed of Trust, Alleged Claim Against BONY, and BONY Claim, selling
9 the Property, and the maximization of the return to the Estate;
- 10 b) advise Trustee on all matters pertaining the Rental Income, including filing a
11 fraudulent transfer action in connection with it;
- 12 c) evaluate avoidance actions, and, if necessary, prosecute them;
- 13 d) take actions necessary to liquidate the assets of the Estate;
- 14 e) prepare and file all documents necessary to obtain Court approval of any
15 compromises and court appearances as necessary;
- 16 f) legal examination of claims, including the BONY Claim, and any litigation
17 including claims negotiations, prepare and file objections and Court appearances
18 as required;
- 19 g) examine witnesses, claimants or adverse parties with respect to any action where
20 the rights of the Estate or Trustee may be affected; and
- 21 h) perform any and all other legal services necessary to protect the rights of Trustee
22 and the Estate.

23 **II. ARRANGEMENT FOR COMPENSATION.**

24 The Firm has not, and will not receive a retainer from Trustee or the Estate. The Firm will seek
25 compensation pursuant to §§ 330 and 331. The hourly billing rate of attorneys of the Firm range from
26 \$350 to \$575/hour, and paralegals/law clerks rates range from \$130 to \$225/hour, as provided below.
27 The Firm will apply for compensation not more frequently than once every 120 days, after notice and a
28 hearing, as required by the Bankruptcy Code. The Firm will accept as compensation such sum as the

Court deems reasonable. There will be no written employment agreement, separate from this Application and the order to be obtained hereon; and the only source of payment of compensation is the Estate.

<u>Attorneys</u>	<u>2022 Rates</u>
William G. Malcolm	\$575.00
Arturo M. Cisneros	\$575.00
Nathan F. Smith	\$505.00
Nicolas Matayron	\$450.00
Charles W. Nunley	\$500.00
Hydee J. Mulichak	\$475.00
Grant Courtney	\$450.00
Kris J. Sundberg	\$450.00
Samuel R. Burton	\$400.00
Brian Thomley	\$425.00
Christina J. Khil	\$375.00
Melissa Sgroi	\$375.00
Esther Torre Smith	\$350.00
Denise Lee	\$350.00

<u>Paralegals/Law Clerks</u>	
Rylia Tjokrosoeharto	\$225.00
Melissa Fusco	\$200.00
Ernest Cisneros	\$200.00
Mayra Johnson	\$200.00
Leilani Colon Diaz	\$150.00
Erica F. Pedraza	\$130.00
Rhonda White	\$130.00

III. PROCEDURE FOR OBTAINING A COPY OF THE APPLICATION TO EMPLOY.

A copy of the Application is available upon written request by contacting Erica Pedraza at Malcolm ♦ Cisneros, A Law Corporation, 2112 Business Center Drive, Irvine, CA 92612, telephone number: (949) 252-9400, facsimile: (949) 252-1032, email: erica@mclaw.org.

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1 **IV. PROCEDURE FOR OBJECTING AND/OR RESPONDING TO THE**
2 **APPLICATION TO EMPLOY.**

3 **PLEASE TAKE FURTHER NOTICE** that if you do not oppose the proposed employment,
4 you need not take further action. Pursuant to Local Bankruptcy Rule 2014-1(b)(3)(E), any opposition to
5 the Application and request for hearing must be filed with the Court in the form required by Local
6 Bankruptcy Rule 9013-1(f)(1) and served upon proposed counsel for Trustee at the address indicated in
7 the upper-left hand corner of the first page of this document and the Office of the United States Trustee
8 no later than 14 days from the date of the service of this notice. Failure to timely file and serve an
9 opposition, response or request for hearing may be deemed consent to the relief sought in the
10 Application.

11 DATED: September 27, 2023

Malcolm ♦ Cisneros, A Law Corporation

12 By: /s/ Nathan F. Smith
13 NATHAN F. SMITH
14 *Proposed Attorneys for Chapter 7 Trustee,*
15 *A. Cisneros*
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **2112 Business Center Drive, 2nd Floor, Irvine, CA 92612**

A true and correct copy of the foregoing document entitled (specify): **NOTICE OF TRUSTEE'S INTENT TO EMPLOY THE LAW FIRM OF MALCOLM + CISNEROS, A LAW CORPORATION, AS GENERAL COUNSEL** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **September 27, 2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

OFFICE OF U.S. TRUSTEE: United States Trustee (SA) ustpreregion16.sa.ecf@usdoj.gov
CHAPTER 7 TRUSTEE: Arturo Cisneros (TR) amctrustee@mclaw.org, acisneros@iq7technology.com;
ecf.alert+Cisneros@titlexi.com

☒ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**: On (date) **September 27, 2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

DEBTOR: Jeffrey S Beier, P O Box 7644, Laguna Niguel, CA 92677

☒ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) **September 27, 2023**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

September 27, 2023
Date

Diep Quach
Printed Name

/s/ Diep Quach
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

SECTION 1 CONT.

DEBTOR'S ATTORNEY: Anerio V Altman LakeForestBankruptcy@jubileebk.net, lakeforestpacer@gmail.com
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cvalenzuela@mclaw.org

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

SECTION 2 CONT.

Bank of America, National Association
Attn: Bankruptcy Department
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El Paso, TX 79998

Gary and Patricia Beier
Drakes Bay
Laguna Niguel, CA 92677

INTERNAL REVENUE SERVICE
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Sandy Elsberg
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~~Sergei Nasonov~~
No complete address

~~Steven Beier~~
~~San Jose~~
No complete address

THE BANK OF NEW YORK MELLON
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